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WORKING PAPER SERIES

CULTURAL DISTRICTS AND THE ROLE OF INTELLECTUAL PROPERTY (DISCTINCTIVE SIGNS)

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Starting from the idea that every region has its claim to fame, the purpose of this presentation is to determine how the intellectual property (IP) system may be used by the producers to enhance, preserve or even establish such reputation. China silk, Venetian Glass all were much sought after treasures, the reputation of which was carefully built up and traditionally handed from one generation to the other. Christopher Columbus sailed from Europe to chart out a new route to capture the wealth of the renowned Indian spices.

As I said before, the object of today's presentation is to explore possible ways of using the IP system for the protection, development and commercialization of a country's culture-based assets, given the alternative forms of protection that are currently available both at the national and international level.

In this presentation I will more particularly focus on industrial cultural districts producing material goods. In other words I will essentially consider the case of localized **districts** made up of small firms producing culture-based goods, which have been essentially created for commercial purposes.

This preliminary limitation will allow me to distinguish such culture-based industries from other forms of cultural production deriving from what is designated as "Folklore" or "Traditional cultural expressions", the production of which does not necessarily obey to commercial considerations [but works more as a reflection of a community's history, religion,

values, and cultural and social identity], and the protection of which is currently the object of a separate debate at the international level.

1- Existence of national cultural districts worldwide

When we talk about "cultural districts" we refer to the existing geographical areas producing goods (particularly handicrafts) resulting from local artistic and cultural traditions, such as jewelry, rugs, carpets, pottery, glass, leather, wood-carving, and textiles. These agglomerations of economic activities for the production of culture-based goods were first qualified as "cultural districts" by Economists.

From a commercial viewpoint, it can be said that like any other businessperson, artisans and visual artists that have been able to establish a certain quality and reputation for a given product in a specific geographical area, cannot allow competitors to free-ride on their established reputation (which is also the secret of their success) by letting others copy their products or use the name of their geographical region on similar products of a lower quality or coming from another region, which may ultimately ternish the reputation of the traditionally made original product. Accordingly, the original producers from the region should make reasonable efforts to prevent such knowledge or reputation from being misappropriated by third parties, by using the tools provided by the IP system.

2- Overview of the existing intellectual property legal instruments for collective ownership (distinctive signs such as trademarks, collective trademarks, certification trademarks, industrial designs, geographical indications)

As a preliminary introduction I would like to point out that the various national systems for the protection of indications of geographical origin might be roughly divided into three categories:

*trademark law provisions devoted to collective marks and/or certification and guarantee marks;

*specific protection systems for geographical indications and appellations of origin; and

*more general laws focusing on business practices, including laws and legislation pertaining to unfair competition and consumer protection.

Let us now revert to the first category and more particularly to collective marks.

*Collective marks:

Definition: collective marks are marks used to distinguish products or services provided by a group of enterprises, generally members of an association.

A collective mark is generally owned by an association or cooperative which exclusively grants its members the right to use the mark if they comply with the requirements fixed in the regulations concerning the use of the collective mark (e.g. quality standards, geographical origin). A collective mark may be an effective way of jointly marketing the products of a group of enterprises that may individually find it more difficult to make their individual marks recognized by consumers and/or distributed by the main retailers, while preserving a high level of quality.